THE HONOURABLE SRI JUSTICE G. CHANDRAIAH

W.P. No.12203 of 1999

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Date: 31-10-2007

Between:

Myneedu Narasimha Rao

… Petitioner

And

The Secretary,
Revenue Department,
Government of Andhra Pradesh,
Secretariat Buildings, Hyderabad and others.

…
Respondents

ORDER:

This writ petition has been filed seeking a *Writ of Mandamus* to declare the action of the respondents in not registering the documents presented by the petitioner and requiring him to pay the stamp duty on the basis of the value of the site as on the date of the presentation of the document and not the stamp duty calculated as per the value of the site on the date of sale, as arbitrary and illegal and consequently to direct the respondent authorities to register the same forthwith on payment of stamp duty as per the value of the site and the building therein as on the date of the sale and construction.

It is averred that on the earlier occasion the petitioner filed a petition in W.P. No.35054 of 1998 before this Court against the respondents. This Court by order dated
18-12-1998 dismissed the said petition leaving it open to the petitioner to present the documents for registration and if the Registrar refuses to register the documents, the petitioner was at liberty to avail the remedies provided in law.

The case of the petitioner is that he is the member of the 3rd respondent, People's Co-operative House Building Society, Chikkadapally, Hyderabad, and he was allotted a vacant site vide Plot bearing No.31, to an extent of 299 square yards, situated at

Vivek Nagar, Chikkadapally, Hyderabad for a total consideration of Rs.1,500/-. In pursuance of the allotment of house site by the Society, loan was granted by the Government of A.P. and the said site was mortgaged to the Government through the Society in order to secure a due repayment of the loan granted for construction of the house therein. The petitioner repaid the loan amount of Rs.10,000/- along with interest and obtained a certificate dated 01-04-1989 from the Deputy Registrar of Cooperative Societies (Housing) and he is paying the Municipal tax and non agricultural cess for the past 40 years regularly.

It is also submitted that one of the conditions stipulated for granting of house loan to the members of the Society that the house site to be mortgaged to the Government through the Society. Thus the house site could not be conveyed immediately by way of registered sale deed in favour of the petitioner. As such, the petitioner submitted a detailed representation dated 26-12-1996 to the 4th respondent,

Sub-Registrar, requesting him to permit the petitioner to execute and get a sale deed registered by paying stamp duty on the total sale consideration of Rs.1,500/- paid to the Society in the year 1956. The 4th respondent vide endorsement dated 05-02-1997 expressed his inability to accede the request of the petitioner. Therefore, he again made a representation dated 18-08-1998 to the District Registrar of Assurance requesting the authority to permit him to pay the stamp duty on the amount of consideration of Rs.1,500/- for getting registered the sale deed. Though the authorities have acknowledged the receipt of the representation, they did not move in the matter and have been orally informing that it is not possible to get a sale deed registered showing the

consideration of Rs.1,500/- in the sale deed and paying the stamp duty and registration fee on the said amount and as such requiring him to pay stamp duty and registration fee on the value mentioned in the Basic Value Register maintained by the 4th respondent and on the ground that there is no provision in the Act to comply with his request. Thereupon he filed a petition in W.P. No.35054 of 1998 before this Court, which was ended giving liberty to the petitioner to avail the remedies provided under law.

The 3rd respondent, Society, later on executed a sale deed on 14-05-1999 in favour of the petitioner and the said document was presented to the respondent authorities for registration. The petitioner paid the requisite registration fee under Challan No.1003 on 15-05-1999 but the document was not registered and the same was kept pending for payment of stamp duty at the prevailing market rate.

Counter affidavit has been filed by the 4th respondent stating that the petitioner had submitted a sale deed dated 15-05-1999 on a plain paper bearing no stamps for consideration of Rs.1,495/-. The document was kept pending with No.P/63/99 as the stamp duty and registration fee was not paid on the basis of true market value of the property on the date of presentation of the document. It is also submitted that the Market Value Committee, headed by the Joint Collector of Hyderabad, issued guidelines from time to time and based on that guidelines the registering authorities came to a conclusion that the petitioner has to pay true market value as on the date of presentation of the document. Therefore, the said documents kept pending expecting the

petitioner to pay the deficit stamp duty on the basis of the true market value. It is also submitted that if the petitioner is not willing to pay the stamp duty and registration fee on the basis of true market value as on the date of presentation of document, the 4th respondent will refer the documents under Section 47-A of the Indian Stamp Act, 1899 (For short
'the Act') to the Collector for determination of the market value, provided the petitioner deposits the amount equal to 50% of the deficit duty arrived by the office but the petitioner has not come forward to deposit 50% of the deficit duty as per the Act. As and when the petitioner complies with the requirement, the office will refer the matter to the Collector under Section 47-A of the Act.

Admittedly the reason for keeping the matter pending is mentioned in the counter affidavit but no necessary proceedings were issued indicating under what provisions of law the petitioner has to pay the stamp duty and registration fee based on the true market value and what is the true market value and if it is calculated, what is the amount that the petitioner has to pay, which will be equal to 50% of the amount. In the absence of any such particulars, the petitioner will not be in a position to make such payment and the respondent authorities cannot keep pending the documents with them and necessarily they have to issue the proceedings assigning the reasons why they are not registering the same.

Having regard to the facts and circumstances of the case, I deem it appropriate to direct the 4th respondent,
Sub-Registrar, to pass appropriate orders, in accordance with law,

assigning the reasons, within a period of four weeks from the date of receipt of a copy of this order.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

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JUSTICE G. CHANDRAIAH

Date: 31-10-2007
LSK